

Pending Claims

After entry of the foregoing amendment, the status of the claims is as follows:

Pending: 1-10, 12-35, 49, 51-53, 55-72 and 74-89

Canceled: 11, 36-48, 50, 54 and 73

Currently amended: 1-3, 6, 26-32, 49, 55-72, 74-81 and 84-89

Support for the amendments can be found throughout the specification and original claims. Applicants assert that no new matter has been introduced as a result of the amendments.

Rejections Under 35 U.S.C. §103

Claims 1-10, 12-35, 49 and 51-89 stand rejected under 35 U.S.C. §103 as being unpatentable over Kim *et al.* (Cancer Treatment Reports, 1987), or Assil *et al.* (Arch. Ophthalmol., 1987), or Bonetti *et al.* (Cancer Chemother. Pharmacol., 1994), or Kim *et al.* (5,723,147), or Sankaram *et al.* (5,766,627), in view of Lenke *et al.* (5,948,441). The Examiner alleges that the primary references all teach “basically the same process of preparation of multivesicular liposomes.” The Examiner asserts that what are lacking in the references are the teachings of filtration by cross-flow filtration and making a sterile preparation, which is disclosed by Lenke *et al.*

Without conceding to the correctness of the Examiner’s rejection, Applicants have amended the claims in order to expedite prosecution of the instant application. Any rejections of claims 54 and 73 are now moot, as those claims have been canceled. The claims as amended, each recite limitations that are not found in the cited references. For example, none of the cited references teach or suggest step-wise solvent removal, specific volume fractions for the first and second emulsion, or specific ranges of mixing speeds based on the types of mixers employed. As none of the references teach or suggest each and every limitation of the claims, either alone or in combination, Applicants respectfully request reconsideration and removal of the outstanding rejections.

Claims 1-10, 12-35, 49 and 51-89 stand rejected under 35 U.S.C. §103 as being unpatentable over Kim *et al.* (Cancer Treatment Reports, 1987), or Assil *et al.* (Arch.

Ophthalmol., 1987), or Bonetti *et al.* (Cancer Chemother. Pharmacol., 1994), or Kim *et al.* (5,723,147), or Sankaram *et al.* (5,766,627), in view of Lenke *et al.* (5,948,441), further in view of Kwasiborski (6,033,708), Fenski (5,837,282), Mehl (5,885,260), Castor (5,776,486), Moynihan (5,589,189) by themselves or in combination.

Without conceding to the correctness of the Examiner's rejection, Applicants have amended the claims in order to expedite prosecution of the instant application. Any rejections of claims 54 and 73 are now moot, as those claims have been canceled. As discussed in the foregoing section, the claims as amended each recite limitations that are not disclosed or suggested in the cited references, either alone or in combination. Accordingly, Applicants respectfully request reconsideration and removal of the outstanding rejection.

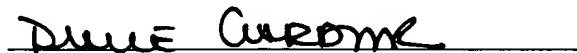
Conclusion

Applicants submit that the claims are now in condition for allowance. If the Examiner believes that a telephone call would expedite the disposal of the application, he is invited to reach the undersigned at the number indicated below.

No fees are believed due. Please apply any necessary charges or apply any credits to Deposit Account No. 50-3137.

Respectfully submitted,

24 January 2005



Diane L. Gardner
Reg. No. 36,518

Customer No. 43517
Mastermind IP Law P.C.
421 Santa Marina Court
Escondido, CA 92029
Telephone: (760) 294-5169
Facsimile: (760) 294-5161
966.doc